IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7143 of 1990

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ABDULSAMAD GULAMHUSEN - Petitioner(s)

Versus

COMPETENT AUTHORITY & ADDITIONAL COLLECTOR(ULC) & 1 - Respondent(s)

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Appearance :
MR PM BHATT for Petitioner(s) : 1, 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.5, 1.2.6, 1.2.7, 1.2.8, 1.2.9,1.2.10
GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 04/10/2005

ORAL JUDGMENT

1. In this petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the

Competent Authority and Addl. Collector, ULC, Ahmedabad dated 4-5-1989 in rejecting the application of the petitioner for sanctioning the scheme under Section 21 of the Urban Land (Ceiling & Regulation) Act, 1976 as well as the judgment and order passed in Appeal No. Ahmedabad 448 of 1989 by the Urban Land Tribunal dated 30th March, 1990 in dismissing the said appeal and confirming the order passed by the Competent Authority and Addl. Collector, ULC, Ahmedabad dated 4-5-1989.

2. This court, while admitting the present Special Civil application, granted the order of status-quo. It is also reported that even after the impugned order, the form was filled in under Section 8(4) of the Act and against which, the petitioner preferred Special Civil Application No. 7538 of 1990, which was also admitted and the said Special Civil Application came to be dismissed as having been abated in view of the Urban Land (Ceiling and Regulation) Repeal Act, 1999.

3. Today, when the matter was called out, Shri MR Mengdey, learned AGP has produced on record one communication from the office of the Competent Authority and Deputy Collector, ULC, Ahmedabad dated 3-10-2005, in

which it is stated that in view of the provision of Urban Land (Ceiling and Regulation) Repeal Act, 1999, the scheme under Section 21 will not have existed and therefore, proceedings are required to be taken as abated. The said communication is directed to be taken on record. However, in the said communication, Shri Mengdey, learned AGP has submitted that there is no clarification with regard to whether the possession has been taken over by the State Government or not.

4. Shri PM Bhatt, learned advocate appearing on behalf of the petitioner has submitted that in fact, the possession of the land in question is not taken over by the State Government and in fact as stated above, the order under Section 8(4) was challenged by the petitioner by way of Special Civil application No.7538 of 1990 and the same is also dismissed as having been abated in view of the Repeal Act, 1999.

5. Under the circumstances, the present Special Civil Application is also dismissed as having been abated in view of the provision of Urban Land (Ceiling and Regulation) Act, 1999. However, the liberty is reserved in favour of the petitioner if ultimately, it is found

that the possession of the land in question is taken over by the State Government. Rule is discharged. Ad interim relief, if any stands vacated forthwith. However, no order as to costs.

(M.R.SHAH,J)

Shekhar/-